

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN HANCOCK LIFE INSURANCE
COMPANY, JOHN HANCOCK
VARIABLE LIFE INSURANCE
COMPANY and MANULIFE
INSURANCE COMPANY,

Plaintiffs,

v.

ABBOTT LABORATORIES,

Defendant.

CIVIL ACTION NO. 05-11150-DPW

**ERRATA RE: ABBOTT'S CORRECTED DEPOSITION DESIGNATIONS FOR
SCOTT S. HARTZ**

Defendant Abbott Laboratories ("Abbott") respectfully submits this Errata in connection with Abbott's Corrected Deposition Designations for the August 19, 2004 and November 10, 2006 deposition of Scott S. Hartz, Executive Vice President and Chief Investment Officer of John Hancock Financial Services, Inc. Abbott inadvertently omitted the deposition transcript excerpt for the August 19, 2004 deposition of Scott Hartz. A true and correct copy of the deposition excerpt is attached hereto. The courtesy copies of these designations that Abbott is submitting to the Court will include the attached deposition excerpt.

Dated: February 25, 2008

Respectfully submitted,

ABBOTT LABORATORIES

By: /s/ Eric J. Lorenzini
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CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on February 25, 2008.

Date: February 25, 2008

/s/ Ozge Guzelsu

Hartz, Scott 8/19/2004 9:30:00 AM

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1 Volume: I
2 Pages: 1 to 98
3 Exhibits: 50 to 57

4 UNITED STATES DISTRICT COURT
5 DISTRICT OF MASSACHUSETTS

6 *****
7 JOHN HANCOCK LIFE INSURANCE
8 COMPANY, JOHN HANCOCK VARIABLE
9 LIFE INSURANCE COMPANY, and
10 INVESTORS PARTNER LIFE INSURANCE
11 COMPANY,
12 Plaintiffs,

13 vs. Civil Action
14 No. 03 CV 12501 DPW
15 ABBOTT LABORATORIES,
16 Defendant.

17 *****
18 DEPOSITION OF SCOTT S. HARTZ, a
19 witness called on behalf of the Defendant, taken
20 pursuant to the applicable provisions of the
21 Federal Rules of Civil Procedure before Cynthia A.
22 Powers, Shorthand Reporter and Notary Public in
23 and for the Commonwealth of Massachusetts, at the
24 law offices of Donnelly, Conroy & Gelhaar, LLP,
One Beacon Street, 33d Floor, Boston,
Massachusetts, on Thursday, August 19, 2004,
commencing at 9:30 a.m.

KACZYNSKI REPORTING
72 CHANDLER STREET, SUITE 3
BOSTON, MASSACHUSETTS 02116
617 426-6060

Hartz, Scott 8/19/2004 9:30:00 AM

1 PROCEEDINGS

2 SCOTT S. HARTZ,

3

4 having been satisfactorily identified

5 and duly sworn by the Notary Public,

6 was examined and testified as follows:

7

8 DIRECT EXAMINATION

9 BY MR. D'AMORE:

10 Q. Good morning, Mr. Hartz. I'm Steve

11 D'Amore, a lawyer for Abbott Laboratories. Would

12 you state your full name for the record?

13 A. Scott Sears Hartz.

14 Q. For the record would you give your

15 home address?

16 A. 15 Torrey Lane, T O R R E Y, in

17 Duxbury, D U X B U R Y, Mass.

18 Q. Mr. Hartz, have you given

19 deposition testimony before?

20 A. No.

21 Q. Let me just outline a couple of

22 procedural rules for lack of a better term. I'm

23 going to ask a series of questions, and I'll ask

24 that you give me answers to those questions. The

Hartz, Scott 8/19/2004 9:30:00 AM

1 Hancock since you joined the company in 1983?

2 A. Sure. In 1983 I joined the
3 actuarial program which is a rotational program.
4 In my first two years I worked in the retail
5 market and then I rotated to the asset liability
6 management area, I guess that would be 1985, and
7 worked there until 1990 when I moved to my current
8 department, the bond and corporate finance group
9 in the portfolio management area, and that's where
10 I've been until actually very recently, you know,
11 working for sort of the head portfolio manager,
12 and I became the head of the portfolio management
13 group, I think it was in 1992, roughly around
14 there, and had been head of portfolio management
15 until about a month ago when the head of our
16 department left and I became the head of all of
17 bond and corporate finance.

18 Q. Who was the head of the bond and
19 corporate finance department?

20 A. Barry Welch.

21 Q. When you said just recently left,
22 between 1990 and about a month ago when Mr. Welch
23 left John Hancock, did you hold various jobs
24 within the bond and corporate finance group?

Hartz, Scott 8/19/2004 9:30:00 AM

1 A. I was in portfolio management the
2 whole time, and the biggest change really was when
3 I became the head of the group. We perform a
4 number of tasks, so I did get involved in
5 different tasks over the years, but it was within
6 the same group, within bond and corporate finance.

7 Q. And you became head of the bond and
8 corporate finance group in 1998; is that correct?

9 A. No, head of the portfolio
10 management group within bond and corporate
11 finance.

12 Q. I'm sorry, thank you. Describe
13 generally for me what the portfolio group does
14 within the bond and corporate finance group?

15 A. Yeah, the portfolio management
16 group is responsible for opining on whether the
17 pricing of a transaction is correct. The main
18 thing we do is make corporate loans. So the
19 analysts in the group determine the risk of the
20 loan, and we determine based on opportunities
21 we're seeing in the market what the right price is
22 for the, what rate should we lend the money. If
23 it's a bid situation, we'll get involved in what
24 the bid should be on the pricing side. Then once

Hartz, Scott 8/19/2004 9:30:00 AM

1 A. I don't believe so. It's possible
2 that there are parts of this that I would have
3 seen in another form but not labeled as Research
4 funding agreement.

5 Q. That you said your role in
6 connection with the Research funding agreement was
7 very limited. More specifically, what was your
8 role?

9 A. My role had two parts really here.
10 One was the accounting -- this was an unusual
11 transaction for us. As I said earlier, we mostly
12 make corporate loans and part of -- one job of
13 portfolio management as we're putting investments
14 into portfolios is make sure they fit, and one
15 part of that is the accounting; how does the
16 accounting work, is it working in a manner that
17 works for our various portfolios. This was
18 unusual, so I needed to research how we would
19 account for this. A second part was the economics
20 and, as I described earlier, a part of portfolio
21 management is to determine the risk as described
22 by the analyst, what price we should put on that
23 risk. And again this was an unusual transaction,
24 and to describe the risk Steve Blewitt developed a

Hartz, Scott 8/19/2004 9:30:00 AM

1 schotastic model. And one of the things I did, I
2 spent some time looking at his model to make sure
3 it operated sort of mechanically correctly and,
4 two, based on, based on the output of the model
5 which described -- the idea is to describe the
6 risk of the transaction, usually means credit
7 ratings to describe risk. The model helped us to
8 find the risk of the transaction. Part of my role
9 is to opine whether we're getting adequately
10 compensated for the risk.

11 Q. In your answer you said that, I
12 think you said that Mr. Blewitt prepared a blank
13 type of model and I didn't follow?

14 A. Prepare a schotastic model which
15 means that he in a probabilistic sense tries to
16 determine a possible outcome of this transaction,
17 and because there were a number of compounds going
18 into this transaction that could or could not be
19 successful, he came up with probabilities around
20 that, and then he developed a model which based on
21 those probabilities would project a set of cash
22 flows that we would receive and use a random
23 number generator to determine which drugs would be
24 successful and then develop I think it was five

Hartz, Scott 8/19/2004 9:30:00 AM

1 hundred different scenarios, and it's those five
2 hundred scenarios that defines schotastic
3 analysis, and based on that you get a distribution
4 of expected returns, in the worse five percent of
5 the scenarios what kinds of return you'll have,
6 that helps you figure out the range of
7 possibilities.

8 Q. Is it fair to say that what
9 Mr. Blewitt was doing in part through this
10 schotastic modeling was to determine an internal
11 rate of return for John Hancock as part of the
12 Research funding agreement?

13 A. Yes, each scenario we would
14 calculate into interim rate of return for.

15 Q. Let me show you John Hancock's
16 responses to interrogatories that Abbott served in
17 the case, and I'm just going to direct your
18 attention to the part of the document that
19 identifies you, Mr. Hartz. If you would turn to
20 page number five. And for the record, these are
21 Plaintiff's Responses to Defendant Abbott
22 Laboratories First Set of Interrogatories. Have
23 you flipped to page five?

24 A. Yes.

Hartz, Scott 8/19/2004 9:30:00 AM

1 really which drugs were alive was the main driver
2 of the cash flows.

3 Q. In the document that we looked at a
4 moment ago, Exhibit 55, in the title of the
5 document it identifies Abbott Laboratories and
6 then just to the right of that it says
7 nonrecourse; what does that mean in this context?

8 A. It means that Abbott Labs, the
9 corporate entity, does not guarantee the return of
10 our investment.

11 Q. Was that your understanding of the
12 transaction?

13 A. Yes.

14 MS. TROAKE: Objection.

15 (Exhibit 56 marked
16 for identification)

17 Q. Mr. Hartz, I have handed you what
18 we've marked as Abbott Exhibit 56 which consists
19 of two e-mail messages on which you were copied.
20 Do you recognize these e-mail messages?

21 MS. TROAKE: Objection.

22 A. Yes.

23 Q. In the e-mail message dated March
24 26, 2002 on which you are shown as a copy

Hartz, Scott 8/19/2004 9:30:00 AM

1 Q. Do you recall whether you did that
2 or Deirdre did that verbally or in some kind of a
3 written communication?

4 MS. TROAKE: Objection. If you
5 know.

6 A. Yeah, I don't specifically
7 remember.

8 Q. Who is John Mastromarino?

9 A. John Mastromarino was our
10 enterprise risk officer for a period of time.

11 Q. When did he join John Hancock?

12 A. Trying to remember, and I wouldn't
13 remember exactly, but if I had to guess I would
14 guess in --

15 MS. TROAKE: You don't have to
16 guess. If you don't recall --

17 A. I can make within a window.

18 Q. Just give me your best --

19 A. Recollection.

20 Q. -- memory of when he joined the
21 company?

22 A. Early 2002 would be my best
23 recollection.

24 Q. Is he still with John Hancock?

Hartz, Scott 8/19/2004 9:30:00 AM

1 A. No.

2 Q. When did he leave the company?

3 A. Early 2004.

4 Q. Do you know where he went to work?

5 A. I don't.

6 Q. Do you know where he's presently

7 located?

8 A. I don't.

9 Q. Have you talked to Mr. Mastromarino

10 since he's left John Hancock?

11 A. No.

12 Q. Did you ever talk to Mr.

13 Mastromarino on the subject of the Abbott Research

14 funding agreement?

15 A. I remember a specific conversation,

16 yes.

17 Q. When did that occur?

18 A. I think it was either late 2003 or

19 early 2004, don't specifically remember.

20 Q. Was it an in person meeting or a

21 telephone call?

22 A. It was a chance encounter in the

23 hallway kind of conversation.

24 Q. Just you and he?

Hartz, Scott 8/19/2004 9:30:00 AM

1 A. Yes.

2 Q. What did he say and what did you
3 say?

4 MS. TROAKE: Objection.

5 A. He said we never would have done
6 that transaction if he had been here at the time.

7 Q. Did he say anything else?

8 A. That was about it.

9 Q. Did he tell you why he believed
10 that?

11 A. He didn't. He didn't.

12 Q. What did you say?

13 A. I said I thought it was a good
14 transaction, probably too large an amount for us
15 to have entered into at 220 odd million, but
16 besides the amount I thought it was a reasonable
17 and a good transaction at the time we did it.

18 Q. Do you recall anything else that
19 Mr. Mastromarino or you said during that encounter
20 in the hallway in late 2003/early 2004?

21 A. No.

22 Q. Did you have any follow up with him
23 on that subject?

24 A. No.